

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202006783	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/26/2020 12:05 AM	Location of Incident: East 233rd Street and Baychester Avenue	Precinct: 47	18 Mo. SOL 3/26/2022	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 09/26/2020 1:15 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/08/2020 1:27 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Robert Wichers	16306	958169	GVSD Z2
2. SGT Luis Martinez	05364	944776	GVSD Z2
3. DT3 Brandon Ravelo	04551	948409	GVSD Z2
4. DT3 Sean Kern	03332	955000	GVSD Z2

Officer(s)	Allegation	Investigator Recommendation
A.SGT Luis Martinez	Abuse: Sergeant Luis Martinez stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.DT3 Brandon Ravelo	Abuse: Detective Brandon Ravelo threatened § 87(2)(b) with the use of force.	
C.PO Robert Wichers	Abuse: Police Officer Robert Wichers frisked § 87(2)(b)	
D.DT3 Brandon Ravelo	Abuse: Detective Brandon Ravelo frisked § 87(2)(b)	
E.DT3 Brandon Ravelo	Abuse: Detective Brandon Ravelo searched § 87(2)(b)	
F.PO Robert Wichers	Abuse: Police Officer Robert Wichers searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
G.SGT Luis Martinez	Abuse: Sergeant Luis Martinez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.SGT Luis Martinez	Abuse: Sergeant Luis Martinez refused to provide his name to § 87(2)(b)	
I.SGT Luis Martinez	Abuse: Sergeant Luis Martinez refused to provide his shield number to § 87(2)(b)	
J.PO Robert Wichers	Abuse: Police Officer Robert Wichers refused to provide his name to § 87(2)(b)	
K.PO Robert Wichers	Abuse: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b)	
L.DT3 Brandon Ravelo	Abuse: Detective Brandon Ravelo refused to provide his name to § 87(2)(b)	
M.DT3 Brandon Ravelo	Abuse: Detective Brandon Ravelo refused to provide his shield number to § 87(2)(b)	
N.DT3 Sean Kern	Abuse: Detective Sean Kern refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
O.DT3 Sean Kern	Abuse: Detective Sean Kern refused to provide his shield number to § 87(2)(b)	
P.SGT Luis Martinez	Abuse: Sergeant Luis Martinez failed to provide § 87(2)(b) with a business card.	
Q.SGT Luis Martinez	Abuse: Sergeant Luis Martinez failed to provide § 87(2)(b) with a business card.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 26, 2020, § 87(2)(b) called the IAB Command Center and filed this complaint on behalf of himself, and a taxi driver, identified via investigation as § 87(2)(b). On October 8, 2020, the complaint was received at the CCRB.

On September 26, 2020, at approximately 12 a.m., Sergeant Luis Martinez, Police Officer Robert Wichers, and Detectives Brandon Ravelo and Sean Kern, all from the Gun Violence Suppression Division (GVSD), stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants in the vicinity of East 233rd Street and Baychester Avenue in the Bronx (**Allegation A: Abuse of Authority**, § 87(2)(g) Detective Brandon Ravelo threatened § 87(2)(b) with the use of force (**Allegation B: Abuse of Authority**, § 87(2)(g) PO Wichers and Det. Ravelo frisked § 87(2)(b) (**Allegation C and D: Abuse of Authority**, § 87(2)(g) Det. Ravelo searched § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g) PO Wichers and Sgt. Martinez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegations F and G: Abuse of Authority**, § 87(2)(g) Sgt. Martinez, PO Wichers, and Dets. Ravelo and Kern, all refused to provide their names and shield numbers to § 87(2)(b) (**Allegations H through O: Abuse of Authority**, § 87(2)(g) Sgt. Martinez failed to provide § 87(2)(b) and § 87(2)(b) with business cards (**Allegations P and Q: Abuse of Authority**, § 87(2)(g) § 87(4-b) § 87(2)(g)

No arrests or summonses resulted from this incident.

There is no video evidence in this case. § 87(2)(g)

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Luis Martinez stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (B) Abuse of Authority: Detective Brandon Ravelo threatened § 87(2)(b) with the use of force.

Allegation (C) Abuse of Authority: Police Officer Robert Wichers frisked § 87(2)(b).

Allegation (D) Abuse of Authority: Detective Brandon Ravelo frisked § 87(2)(b).

Allegation (E) Abuse of Authority: Detective Brandon Ravelo searched § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer Robert Wichers searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (G) Abuse of Authority: Sergeant Luis Martinez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (H) Abuse of Authority: Sergeant Luis Martinez refused to provide his name to § 87(2)(b).

Allegation (I) Abuse of Authority: Sergeant Luis Martinez refused to provide his shield number to § 87(2)(b).

Allegation (J) Abuse of Authority: Police Officer Robert Wichers refused to provide his name to § 87(2)(b).

Allegation (K) Abuse of Authority: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b).

Allegation (L) Abuse of Authority: Detective Brandon Ravelo refused to provide his name to § 87(2)(b).

Allegation (M) Abuse of Authority: Detective Brandon Ravelo refused to provide his shield number to § 87(2)(b).

Allegation (N) Abuse of Authority: Detective Sean Kern refused to provide his name to § 87(2)(b).

Allegation (O) Abuse of Authority: Detective Sean Kern refused to provide his shield number to § 87(2)(b).

It is undisputed that officers stopped and searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants, and frisked § 87(2)(b) § 87(2)(g) § 87(2)(b).

§ 87(2)(b) (Board Review 01) said that at approximately 11:30 p.m., on September 25, 2020, he ordered an Uber from his workplace, located at § 87(2)(b) in the Bronx, to his home, located at § 87(2)(b) in the Bronx. A black Toyota Camry sedan, driven by § 87(2)(b) arrived a few minutes later and picked § 87(2)(b) up. § 87(2)(b) carried a black bookbag containing some school supplies, was the only passenger in the vehicle, and sat in the rear seat on the passenger's side. § 87(2)(b) mostly slept during the trip and thus did not observe anything that might have transpired during the drive. At approximately 12 a.m., on September 26, 2020, the police pulled over the vehicle in the vicinity of East 233rd Street and Baychester Avenue in the Bronx. Sgt. Martinez and PO Wichers approached the driver's side, whereas Dets. Ravelo and Kern approached the passenger's side. The officers on the driver's side spoke to § 87(2)(b) but § 87(2)(b) did not hear what was said, nor did he know why the vehicle was stopped. At some point, Det. Ravelo opened the rear door on the passenger's side, and told § 87(2)(b) "Don't move. If you move, we are going to do it to you." § 87(2)(b) understood Det. Ravelo's statement as a threat to harm him if he made any movements. § 87(2)(b) denied making any movements in the vehicle at any point before or after the officers approached the vehicle, denied having any bulges on his person, and said he only held his cellphone in his hand. Det. Ravelo ordered § 87(2)(b) to exit. § 87(2)(b) complied. Det. Ravelo moved his hands around § 87(2)(b) entire body on the outside of § 87(2)(b) clothing, reached his hand inside § 87(2)(b) pants through § 87(2)(b) waistband, and then moved his hands around § 87(2)(b) groin and thighs on the outside of § 87(2)(b) boxer shorts. Det. Ravelo also reached inside and emptied out § 87(2)(b) pants pockets. § 87(2)(b) did not know why he was frisked and searched, and said the search yielded negative results for any contraband. § 87(2)(b) also denied having smoked marijuana that day, said he had no marijuana on his person, nor did he smell of marijuana. He also denied that the vehicle smelled of marijuana. Det. Ravelo and Det. Kern escorted § 87(2)(b) to the rear of the vehicle, and remained with him. At some point, Sgt. Martinez and PO Wichers approached the rear of the vehicle, and said § 87(2)(b) was free to return to the vehicle. Sgt. Martinez, PO Wichers, Det. Kern, and Det. Ravelo, all then began to walk towards their vehicle. § 87(2)(b) asked the officers why he was frisked and searched, but none of the officers responded. He then asked the officers to provide their names and badge numbers, but the officers ignored him, entered their vehicle, and left the scene. § 87(2)(b) returned to the vehicle and noticed that all the items in his bookbag had been emptied and spread all over the rear seats. § 87(2)(b) did not know how the items in his bookbag were emptied, but believed Sgt. Martinez and PO Wichers might have entered the vehicle and searched his bookbag because they were the only officers who were not with him at the rear of the vehicle. § 87(2)(b) did not know why his bookbag was searched. § 87(2)(b) did not recall any conversations with § 87(2)(b) when he returned to the vehicle, except that he asked § 87(2)(b) to drive him to the 47th Precinct stationhouse, where § 87(2)(b) filed a complaint at the desk. § 87(2)(b) § 87(2)(g).

§ 87(2)(b) did not recall committing any vehicle or traffic infractions prior to the stop, nor did he recall being informed of why his vehicle was stopped. § 87(2)(b) remembered that one of the officers asked him some questions, though § 87(2)(b) did not recall what they were, that § 87(2)(b) was ordered out of the vehicle, and the rear seats of the vehicle were searched. § 87(2)(b) did not see the officers who searched the rear seats, did not know why the vehicle was searched, and acknowledged that the search was limited to the rear seats. § 87(2)(b) did not recall hearing the officers mention anything about marijuana odor, was not familiar with the odor of marijuana, and thus did not know if his vehicle smelled of marijuana. He also did not recall if the smell inside his vehicle changed at any point after he picked up § 87(2)(b) nor did he know why § 87(2)(b) was ordered out of the vehicle. § 87(2)(b) who remained inside the vehicle for the duration of the incident, did not see anything that transpired after § 87(2)(b) was ordered out of the vehicle. § 87(2)(b)

§ 87(2)(b) did not hear any conversations between § 87(2)(b) and the officers, and thus did not hear any officer make the alleged threatening statement to § 87(2)(b) or hear § 87(2)(b) request the names and shield numbers of the officers. § 87(2)(b) did not receive a summons and did not recall being warned and admonished by any of the officers.

Sgt. Martinez (Board Review 03) said that he together with PO Wichers, Dets. Ravelo and Kern, were driving westbound on East 233rd Street, when Sgt. Martinez observed a dark vehicle with a Taxi & Limousine Commission (TLC) license plate, driving right in front of them. The taxi accelerated then slowed down multiple times, then passed a vehicle without signaling. Sgt. Martinez, who was the supervisor and operator of the officers' vehicle, decided to stop the taxi, and find out why the driver failed to signal and drove at an inconsistent speed. Sgt. Martinez had no other reason for stopping the taxi. Sgt. Martinez and PO Wichers approached the driver's side, while Dets. Ravelo and Kern approached the passenger's side. § 87(2)(b) was in the driver's seat, and § 87(2)(b) was in the rear seat on the passenger's side. Sgt. Martinez did not recall observing any movements inside the vehicle prior to or upon approach, nor did he recall having any concerns about the occupants in the vehicle. Sgt. Martinez did not recall informing § 87(2)(b) the reason for the vehicle stop. At some point, Det. Ravelo ordered § 87(2)(b) out of the vehicle, and § 87(2)(b) complied. Det. Ravelo then appeared to frisk § 87(2)(b) around his waistband and lower body, but Sgt. Martinez did not see Det. Ravelo enter § 87(2)(b) pockets. Det. Ravelo then escorted § 87(2)(b) to the rear of the vehicle. Sgt. Martinez approached the rear, and Det. Ravelo informed him that he observed a large "suspicious" bulge around § 87(2)(b) waistband, and that § 87(2)(b) also appeared to smell of marijuana. Sgt. Martinez did not recall seeing a bulge around § 87(2)(b) waistband, did not recall if Det. Ravelo described the bulge, nor did he recall detecting an odor of marijuana on § 87(2)(b) person. Sgt. Martinez also did not recall detecting an odor of marijuana when officers first approached the vehicle, but said he detected a strong pungent smell of what appeared to be marijuana emanating from § 87(2)(b) bookbag when he and PO Wichers entered and searched the rear seats of the vehicle including the bookbag. Sgt. Martinez said the search was limited to the rear seats because that was where § 87(2)(b) was seated, and that the vehicle was searched because of the odor of marijuana. Sgt. Martinez did not recall if any marijuana or contraband was recovered from the vehicle, and did he recall hearing Det. Ravelo make any statement to § 87(2)(b) that could have been construed as threatening. Sgt. Martinez did not recall hearing § 87(2)(b) request the officers' names and badge numbers, and said he would have provided his name and badge number to § 87(2)(b) upon request. Sgt. Martinez acknowledged that no summons resulted from this incident, and said he utilized his discretion not to issue § 87(2)(b) any summonses for the traffic violations.

§ 87(2)(g)

§ 87(2)(b) PO Wichers, and Dets. Kern and Ravelo, did not recall observing the alleged traffic infractions, but said Sgt. Martinez informed them of his decision to stop the taxi for failing to signal. PO Wichers, and Dets. Ravelo and Kern observed § 87(2)(b) rapidly turning his head and shoulders from side to side, occasionally leaning forward and back, and appearing to either conceal or reach for something, as the officers approached the vehicle. They found § 87(2)(b) behavior to be somewhat odd, and thus raised their concerns about their safety. When they approached, PO Wichers, and Dets. Kern and Ravelo, all detected a strong smell of burnt marijuana emanating from the rear seats of the vehicle. PO Wichers also observed § 87(2)(b) turning and appearing to shield his body away from PO Wichers. PO Wichers thus opened the rear door on the driver's side so he could better see inside the vehicle. Det. Ravelo opened the rear door on the passenger's side, and ordered § 87(2)(b) to exit the vehicle because of the odor of marijuana, and because he observed a large square shaped object sticking out of § 87(2)(b) waistband and midsection. The object, coupled with § 87(2)(b) initial movements, led him to believe that § 87(2)(b) was possibly in possession of a firearm. PO Wichers acknowledged observing the bulge on § 87(2)(b) waist, but described it as rectangular or L-shaped, which resembled the tail of a firearm. Det. Kern did not recall observing

any bulges on § 87(2)(b) person. PO Wichers and Det. Ravelo both acknowledged that their observation of the alleged bulge factored into Det. Ravelo's decision to order § 87(2)(b) out of the vehicle. § 87(2)(b) however, appeared to call someone on his cellphone, and did not immediately comply with the order to exit the vehicle. PO Wichers thus leaned inside the vehicle, moved his hand around the bulge on § 87(2)(b) waist, and felt what appeared to be an oversized belt buckle. PO Wichers said that he frisked § 87(2)(b) waist because he was concerned about officer safety, and wanted to ensure that § 87(2)(b) did not have a weapon. § 87(2)(b) exited the vehicle after PO Wichers frisked him. Det. Ravelo also moved his hands around § 87(2)(b) waist, thighs, and groin, all on the outside of § 87(2)(b) clothing, and said he did so because he did not see where on § 87(2)(b) body PO Wichers frisked, and that he wanted to conduct a more thorough frisk of § 87(2)(b) to ensure that he did not have any weapons. Det. Ravelo did not recall observing any other bulges on § 87(2)(b) person, but said the odor of marijuana factored into his decision to thoroughly frisk § 87(2)(b). Det. Ravelo, however, denied reaching into any of § 87(2)(b) pockets, or inside § 87(2)(b) pants. Det. Kern and PO Wichers did not recall seeing Det. Ravelo entering any of § 87(2)(b) pockets, nor did they see Det. Ravelo reach inside § 87(2)(b) pants. PO Wichers acknowledged searching the rear of § 87(2)(b)'s vehicle together with Sgt. Martinez, due to the odor of marijuana. PO Wichers searched § 87(2)(b) bookbag, which was in the rear seat, and recovered a small bag of marijuana and marijuana paraphernalia, which he showed to Sgt. Martinez. Sgt. Martinez elected not to seize the bag of marijuana, given its small quantity. PO Wichers thus placed the narcotic back inside § 87(2)(b) bag. Sgt. Martinez spoke to § 87(2)(b) and § 87(2)(b) but neither PO Wichers, nor Dets. Ravelo and Kern, recalled what was said, except that Sgt. Martinez might have informed § 87(2)(b) and § 87(2)(b) about his decision not to issue them summonses for the traffic infraction and marijuana possession. Det. Ravelo denied making any statements to § 87(2)(b) that were or could have been construed as threatening in nature, nor did PO Wichers and Det. Kern recall hearing Det. Ravelo make such statement to § 87(2)(b). PO Wichers, and Dets. Ravelo and Kern, did not recall hearing § 87(2)(b) request their names and badge numbers, and said they would have provided them upon request.

Stop Report § 87(2)(b) was prepared by PO Wichers though was not provided to the investigation as it was not finalized (Board Review 15).

The smell of marijuana is sufficient to provide officers with probable cause to search an automobile and its occupants, People v. Chestnut, 43 A.D 2d. 260 (1974) (Board Review 14).

§ 87(2)(g)

Allegation (P) Abuse of Authority: Sergeant Luis Martinez failed to provide § 87(2)(b) with a business card.

Allegation (Q) Abuse of Authority: Sergeant Luis Martinez failed to provide § 87(2)(b) with a business card.

It is undisputed that none of the officers provided § 87(2)(b) and § 87(2)(b) with business cards at the conclusion of this incident.

Sgt. Martinez, who acknowledged being the supervisor on scene, said § 87(2)(b) and § 87(2)(b) did not request business cards, and thus did not receive one. Sgt. Martinez said officers are only required to provide business cards upon request, and that he was not aware of any law enforcement activities where officers were mandated to provide business cards irrespective of a request.

An officer shall offer a person a business card at the conclusion of any law enforcement activity, including but not limited to stops, frisk, searches of persons and vehicles, that do not result in an arrest or summons. NYC Administrative Code 14-174 (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint and has been a named victim in two allegations (Board Review 10):
 - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 11).
- Sgt. Martinez has been a member of service for 14-years, and been a subject in 15 CCRB complaints, and 42 allegations, one of which was substantiated:
 - Case # 201703884 involved a substantiated entry of premises allegation. The Board recommended Command Discipline B, whereas the NYPD imposed formalized training.
 - § 87(2)(g)
- Det. Ravelo has been a member of service for 12-years, and has been a subject in 17 CCRB complaints, and 56 allegations, none of which were substantiated § 87(2)(g)
- Det. Kern has been a member of service for eight years, and has been a subject in seven CCRB complaints, and 14 allegations, one of which was substantiated:
 - Case #201901581 involved a substantiated failure to provide RTKA card allegation. The Board and the NYPD both recommended and imposed Command Level Instructions.
 - § 87(2)(g)
- PO Wichers has been a member of service for six years, and has been a subject in six CCRB complaints, and 13, allegations, 12 of which were not substantiated, and one of which is pending investigation. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming unlawful exercise of police power and authority, unlawful stop and search, false imprisonment, emotional anguish and suffering, humiliation, loss of enjoyment of life, severe personal and emotional injuries, and is thus seeking five million dollars as compensation. There is no 50H hearing scheduled (Board Review 12).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: _____1_____

Investigator: _____ Enoch Sowah _____ Inv. Sowah _____ 11/12/2021 _____
Signature Print Title & Name Date

Squad Leader: _____ Mgr. Joy Almeyda _____ 11.15.21 _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date